

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re:	:	
Jeffrey Martin Feldmiller	:	Case No.15-11089-TPA
Sandra Lee Feldmiller	:	Chapter 13
Debtor(s)	:	
Ronda J. Winnecour, Trustee	:	
	:	Related Doc. 74 and 77
Movant(s)	:	
	:	
vs.	:	
NewRez LLC d/b/a Shellpoint Mortgage:	:	
Servicing	:	Hearing Date
Respondent(s)	:	

TRUSTEE'S MOTION FOR DETERMINATION
OF FINAL CURE UNDER F.R.B.P. 3002.1(h)

AND NOW, comes Ronda J. Winnecour, through counsel, and avers as follows:

1. This matter pertains to the Notice of Final Cure ("Notice") of the mortgage of NEWREZ LLC D/B/A SHELLPOINT MORTGAGE SERVICING (Claim 4) ("Mortgage Creditor") filed at Doc 74.¹ The Notice states that the mortgage has been paid through October 2020, and the Debtors are due to resume mortgage payments in November 2020. The Notice included a detailed list of all payments made by the Trustee on account of the mortgage during the course of the Bankruptcy.
2. Mortgage Creditor's response (at Doc 77) agrees with Trustee's Notice, that prepetition default payments have been cured, but alleges (a) payments are due for June 2020 and thereafter, and (b) the amount due, is \$1,411.57, representing 3 monthly mortgage payments less unapplied funds.
3. Trustee asserts that there is no deficiency as of November 1, 2020.

¹ Claim 4 was disallowed by Order at Doc 40. Mortgage Creditor was to have filed an amended proof of claim, but never did so. The arrears paid were per plan.

4. The Trustee disbursed payments in accordance with the debtors' plan dated November 9, 2015, and subsequent payment change notices filed by the creditor as follows:

Begin	End	Mos	Pmt	Total	Accrued amount Paid
11/01/2015	12/01/2016	13	446.54	5,805.02	5,805.02
12/01/2016	12/01/2018	24	694.33	16,663.92	22,468.94
12/01/2018	12/01/2019	12	725.34	8,704.08	31,173.02
12/01/2019	11/01/2020	11	690.04	7,590.44	38,763.46

5. There are no allowed Notice(s) of Postpetition Mortgage Fees, Expenses, and Charges of record that are unpaid.
6. According to the debtors' plan and subsequent payment change notices filed by the creditor, as set forth in the above table, the Trustee was to have paid the mortgage creditor the sum total of \$38,763.46 for the period 11/01/2015 to 10/31/2020. Trustee's records reflect that the Mortgage Creditor was paid that amount.
7. The case was filed 10/12/15. Trustee therefore treated the first post-petition mortgage payment as coming due November 2015. According to the mortgage, the payment is due the 1st of the month. The payment amount utilized for November 2015 – 2016 was that set forth for in the first payment change notice (filed 11/10/2016) for pre December 2016 payments (as well as in the plan). Subsequent period payments were based on the filed payment change notices.
8. Trustee cannot definitively identify the source of the discrepancy in the Mortgage Creditor's accounting. Trustee believes that a useful place to start the analysis is for the Mortgage Creditor to (a) identify any payments the

Trustee claims to have made that Creditor denies receiving; and (b) provide a total of what it believes it should have received for the applicable period and how it calculated the amount (in a table like the Trustee prepared so it is easy to understand and the source of any discrepancy is easily identified). This will at least provide a clue where the error may be. Trustee would note, however, in the event that the Mortgage Creditor prepares such a table and it comes up with different monthly payments than Trustee, it should identify the filing date for the applicable payment change notice that sets out the different payment amount (or the source of its determination of the monthly payment if different from a filed payment change notice).

9. Absent a showing that the Mortgage Creditor should have been paid more than \$38,763.46 paid, the Mortgage should be deemed cured and current through 10/31/2020, with the next payment due, from the Debtors, for November, 2020.

WHEREFORE, the Trustee respectfully requests that the Court: (A) determine that the Trustee has disbursed all payments in accordance with the Debtors' Chapter 13 Plan through October 2020 as to the mortgage held by Mortgage Creditor; and (B) Order that Mortgage Creditor is prohibited from adding any fees or other charges to the debtors' account in connection with the filing of its Response, or for attending any hearing in this matter.

Date: 10/29/20

RONDA J. WINNECOUR,
CHAPTER 13 TRUSTEE
By: /s/ Owen W. Katz
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th of October 2020, I served one true and correct copy Motion, Proposed Order and Notice of Hearing with Response Deadline on the following parties in interest by United States first-class mail, postage prepaid, addressed as follows:

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Assistant U.S. Trustee
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Pittsburgh, PA 15222

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Sandra Lee Feldmiller
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Albion, PA 16401

Michael S. Jan Janin, Esquire
Quinn Buseck Leemhuis, et al.
2222 W. Grandview
Erie, PA 16506

Bruce Williams, CEO
NewRez LLC
1100 Virginia Drive, Suite 125
Fort Washington, PA 19034
*By Certified Mail

New Residential Mortgage LLC
Attention: Keith Labell
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